

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 17, 1991

ALL COUNTY LETTER NO. 91- 67

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Saldivar vs. McMahon; Recommended Strategies for Processing Aid Paid Pending (APP) in a Timely Manner

REFERENCES: ACL 83-110, ACL 83-116, ACL 84-08, ACL 84-47, ACL 84-74, ACL 88-145
ACIN I-136-83, ACIN 62-89

The purpose of this letter is to provide Counties with information about a number of different procedures that may be used to successfully process aid paid pending (APP) a state hearing in a timely manner. This information is being provided in order to assist Counties in complying with the requirement to pay APP within 5 days or by the effective date of the action (whichever is later). Timely payment of APP is especially important in light of the ruling in the Saldivar vs. McMahon court case.

Saldivar vs. McMahon

The Saldivar court order was issued on 12/9/83, by the U.S. District Court in San Francisco. The order precludes application of regulations that would allow Counties to reduce benefits with less than a 10 day notice in those cases where the CA-7 is not submitted timely, (MPP 22-022(j) and M.S. 63-504.264(a),(b) and .265(b)). The court determined that the Counties needed to notify recipients at least 10 days in advance of an adverse action to give them sufficient opportunity to request a hearing and receive aid pending that hearing in a timely manner. It was felt that the claimant would suffer hardship without that 10 day lead time because Counties were not issuing APP promptly.

If the State can show that APP is issued promptly, as required by MPP Section 22-023.11, then SDSS would be in a position to return to court and request that the injunction be lifted. Successful compliance with the APP requirements would demonstrate that recipients suffer no undo hardship by receiving adequate, but not timely, notices. If the injunction were lifted and the regulations applied, then the correct level of benefits could be paid each month, and the number of CA-7 related AFDC overpayments could be reduced. In the Food Stamp Program, application of these regulations would allow Counties to terminate benefits or adjust changes (such as a decrease in shelter costs) in the appropriate payment month, rather than having to wait for the upcoming month because the CA-7 was late.

Corrective Action Strategies

The AFDC and Food Stamp Policy Bureaus polled a number of Counties to gather information about the procedures being used to process APP. The purpose in gathering this information was to obtain effective strategies that would be transferable to other Counties. The intent in sharing this information is to help improve the overall success rate in providing APP in a timely manner.

We appreciate the response from the Counties in providing this information. A summary of the responses is attached. All Counties are encouraged to incorporate these suggested techniques into their own procedures. The methods used to incorporate these strategies will differ from County to County depending on the size of the County, automation capabilities, current staff responsibilities, etc. However, it is hoped that each County will make a concerted effort to use the techniques suggested to expedite the APP process.

Counties are asked to implement the suggested techniques and procedures, (or others that may address specific County needs more effectively) as early as possible before the next Saldivar survey. It is anticipated that the next survey will be conducted at the beginning of next year, possibly in January.

If any County would like information regarding their success rate in the last survey or if there are any other questions, please contact Julie Andrews, Food Stamp Policy Bureau, (916) 324-8701 (ATSS 454-8701), or Marian Ashe, AFDC Policy Bureau, (916) 324-2158 (ATSS 454-2158).



ROBERT A. HOREL
Deputy Director

Attachment

cc: CWDA

RECOMMENDED PROCEDURES FOR COUNTY APPEALS STAFF
BASED ON DATA ACQUIRED IN PHONE INTERVIEWS

1. Each County should obtain/use a FAX machine for correspondence with the State Adjudication Division. Several Counties have reported that use of the FAX has reduced delays in receiving hearing requests from the State Hearing Support Section.
2. County Appeals Staff should be principally responsible for the determination of whether APP is appropriate in each case. After reviewing the case and/or the hearing request, an Appeals Representative should specifically instruct Eligibility Staff to pay, or not pay, APP. Such a determination should not be left up to the Eligibility Worker or Supervisor.
3. Limit the number of people involved in processing the hearing request. If possible, have the APP instruction flow directly from the Appeals Staff to the individual responsible for making the payment.
5. If Appeals Staff is not co-located with Eligibility Staff, a FAX machine could be utilized to forward the hearing request and APP instructions to the outlying offices. This would cut down on time delays in the interoffice mail.
6. The procedure adopted to process the hearing request and APP should be consistent throughout all the County offices. The bureaus (or outlying offices) should not process the requests in their own unique way. The lack of consistency makes it difficult to maintain adequate controls.
7. To the extent possible, the Counties should devise a procedure for following up on the instructions that the Appeals Staff gives to the Eligibility Staff. In Counties that currently utilize follow-up procedures, the EW is asked to respond within 3 days to the APP instructions (with a memo, phone call, E-Mail, etc.).
8. As part of a follow-up procedure, the Appeals Staff may want to request the eligibility case file as soon as the hearing is requested, rather than waiting until the hearing is calendared. Requesting the case reinforces the immediacy of the APP instructions, and having the case file in hand enables the Hearings Representative to review for compliance with those instructions.
9. Establish a special procedure to expedite those hearing requests that are filed toward the end of the month when the 5-day time frame is most critical. In some counties, the Appeals Representative phones the EW directly with APP instructions during the last week of the month.
10. Regulations (22-023.11) state that APP must be placed in the U.S. Mail, OR made available for hand-delivery within 5 days. Some Counties have complied with the 5-day requirement by notifying the recipient that the warrant/ATP is available for pick-up at the CWD office. If the claimant agrees to hand-delivery, making the payment available for pick-up may reduce the delays that can result from processing the payment for delivery by mail.